

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

1:10cv81

**[consolidating for pretrial purposes 1:10cv81, 1:10cv82, 1:10cv83,
1:10cv84, 1:10cv85, 3:10cv197, 3:10cv198, 5:10cv52, 5:10cv52,
5:10cv53, 5:10cv54, 5:10cv55, 5:10cv56]**

ANN GEISEL,

Plaintiff,

Vs.

DOLGENCORP, INC.,

Defendant.

ORDER

MELISSA MORGAN,

Plaintiff,

Vs.

DOLGENCORP, INC.,

Defendant.

TERESA STILLS,

Plaintiff,

Vs.

DOLGENCORP, INC.,

Defendant.

DELLA MODE,

Plaintiff,
Vs.
DOLGENCORP, INC.,
Defendant.

SHIRLEY LEDFORD,
Plaintiff,
Vs.
DOLGENCORP, INC.,
Defendant.

VICKEY WILSON,
Plaintiff,
Vs.
DOLGENCORP, INC.,
Defendant.

JEAN MAPLES,
Plaintiff,
Vs.
DOLGENCORP, INC.,
Defendant.

BRIAN JONES,

Plaintiff,
)
)
Vs.)
)
DOLGENCORP, INC.,)
)
Defendant.)
_____)

CHRISTINE ALEXANDER,)
)
Plaintiff,)
)
Vs.)
)
DOLGENCORP, INC.,)
)
Defendant.)
_____)

SONYA GREENE,)
)
Plaintiff,)
)
Vs.)
)
DOLGENCORP, INC.,)
)
Defendant.)
_____)

CHRIS THOMPSON,)
)
Plaintiff,)
)
Vs.)
)
DOLGENCORP, INC.,)
)
Defendant.)
_____)

LEE NORWOOD,)
)
Plaintiff,)
)

Vs.)
)
DOLGENCORP, INC.,)
)
Defendant.)
_____)

and,

MARY MAYHEW,)
)
Plaintiff,)

Vs.)
)
DOLGENCORP, INC.,)
)
Defendant.)
_____)

THIS MATTER is before the court on plaintiffs' Motion[s] to Stay Discovery and Other Pretrial motions Pending Ruling From Multi-District Litigation Panel. This motion has been fully briefed by the respective parties. A hearing was conducted on such motion[s] on June 22, 2010. Prior to the hearing, the court gave the parties notice that the following issues would also be addressed at such hearing:

- (1) consideration of administrative consolidation of these 13 cases pending trial;
- (2) entry of a Pretrial Order either in each case or in a consolidated action;
- (3) discussion of the requirements of mediation;
- (4) discussion of what discovery remains to be taken;
- (5) setting a dispositive motions deadline; and
- (6) setting a firm trial date.

A Pretrial Order follows and reflects matters discussed concerning discovery and trial in this matter.

The court closely considered the motions seeking to stay these matters pending a decision of the Judicial Panel on Multidistrict Litigation on plaintiffs' motion to transfer these matters back to the Northern District of Alabama. While this court routinely stays cases pending a transfer determination by the JPML, these cases present an atypical situation for this court. Although the transfer of hundreds of cases from the North District of Alabama back to the districts where the respective plaintiffs last worked for defendant will cause all parties, and the transferee courts, a great deal of work, it is clear from the pleadings that such transfer was undertaken by the transferor court not in error, but with the intent that case specific discovery be accomplished and that the matters be resolved in venues where the alleged labor violations supposedly transpired. Thus, it appears that there is substantive work to be accomplished in these cases and that such work can be done in this district.

Having first determined that there is work to be accomplished and that the cases were not transferred to this district in error, the next factor the court has considered is the likelihood that the JPML will grant plaintiffs the relief they seek. While transfer back to the Northern District of Alabama is initially appealing, defendant has made a convincing argument that such would likely be a useless act inasmuch as discovery as to common issues has been exhausted in that forum and all that remains is merits

resolution as to each plaintiff in their respective home districts. Predicting what another court will do is not an exact science; however, the undersigned believes it to be more probable than not that plaintiffs' request will be denied by the JPML. While the undersigned has recently seen another district erroneously transfer a large number of related cases to various districts, which caused numerous procedural problems, it is clear in this case that this transfer was both well informed and purposeful. Indeed, counsel for defendant disclosed during the hearing what appears to be a very workable plan for handling summary judgment motions efficiently.

Finally, the undersigned has considered the impact of denying the stay and whether the work accomplished in this district would be for naught in the event the JPML transfers these matters back to the North District of Alabama. The pretrial work to be accomplished in this district consists of depositions of plaintiffs, and perhaps some non-party co-workers, and limited written discovery. Such discovery would, necessarily, need to be accomplished in this district regardless of the forum that ultimately handles the remainder of pretrial issues. Further, it appears that these actions must be tried in this district as it is likely that the Northern District of Alabama is not a proper venue for trial.

Finally, the rationale contained in defendant's substantive response to the Motion to Stay is compelling. While all the briefs filed by all parties are outstanding, the court simply cannot see the logic, and does not believe the JPML will see, in

returning these matters to the Northern District of Alabama, simply to be promptly returned to this court for final discovery. The undersigned will, respectfully, deny the stay.

* * *

The court has next considered its own motion for consolidation of these 13 cases for pretrial proceedings. Up to this point, the parties have been filing 13 identical sets of pleadings in the 13 cases, while the court has been creating and entering 13 different orders. This is a waste of the resources of the parties and the court. While it appears clear that each plaintiff's work circumstances may well be different and may require a separate trial, the undersigned will consolidate these matter for pretrial proceedings. Whether to try these matters together or during the same term will be left to the sound discretion of the district court.

ORDER

IT IS, THEREFORE, ORDERED that plaintiffs' Motion[s] to Stay Discovery and Other Pretrial motions Pending Ruling From Multi-District Litigation Panel are **DENIED**, and the above actions are **CONSOLIDATED** for further pretrial proceedings as above captioned.

Signed: June 28, 2010

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

